

EXHIBIT 1

INTRODUCTION

Respondent Carole Migden was a successful candidate for the 1st District of the Board of Equalization in the March 5, 2002, Primary Election and the November 5, 2002, General Election. Respondent Carole Migden Leadership Committee (“Committee”) is a controlled committee of Respondent Migden. At all times relevant to this matter, Respondent Roger Sanders was the treasurer of Respondent Committee.

The current matter arose from a mandatory audit conducted by the Fair Political Practices Commission (“FPPC”). Under the Political Reform Act (the “Act”),¹ the FPPC is required to conduct audits of candidates for State Board of Equalization and their controlled committees if specified monetary thresholds have been met. (Sections 90001, subdivisions (b), (e); 90006.)

The audit revealed that Respondents violated the Act’s requirements for: (1) filing a pre-election campaign statement, (2) filing late contribution reports, and (3) filing specified campaign reports online or electronically (“online campaign reports”).

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: On September 30, 2001, outside the 90-day period before an election, Respondents received 2 contributions of \$5,000 or more, in the amount of \$10,000, and failed to disclose the contributions within 10 business days of receipt in an online campaign report, in violation of section 85309, subdivision (c).

COUNT 2: On October 2, 2001, outside the 90-day period before an election, Respondents received a contribution of \$5,000 and failed to disclose it within 10 business days of receipt in an online campaign report, in violation of section 85309, subdivision (c).

COUNT 3: On November 8, 2001, outside the 90-day period before an election, Respondents received a contribution of \$5,000 and failed to disclose it within 10 business days of receipt in an online campaign report, in violation of section 85309, subdivision (c).

COUNT 4: On November 15, 2001, outside the 90-day period before an election,

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

Respondents received a contribution of \$5,000 or more, in the amount of \$10,000, and failed to disclose it within 10 business days of receipt in an online campaign report, in violation of section 85309, subdivision (c).

COUNT 5: On February 16, 2002, during the 90-day period before an election, Respondents received a contribution of \$1,000 or more, in the amount of \$2,000, and failed to disclose it within 24 hours of receipt in an online campaign report, in violation of section 85309, subdivision (a).

COUNT 6: On February 20, 2002, during the late contribution reporting period, Respondents received 2 contributions of \$1,000 or more, totaling \$6,000, and failed to disclose the contributions within 24 hours of receipt in a late contribution report, in violation of Section 84203, subdivisions (a) and (b).

COUNT 7: On or about March 5, 2002, during the 90-day period before an election, Respondents received a contribution of \$1,000 or more, in the amount of \$5,000, and failed to disclose it within 24-hours of receipt in an online campaign report, in violation of section 85309, subdivision (a).

COUNT 8: On or about March 27, 2002, outside the 90-day period before an election, Respondents received a contribution of \$5,000 or more, in the amount of \$5,000, and failed to disclose it within 10 business days of receipt in an online campaign report, in violation of section 85309, subdivision (c).

COUNT 9: On June 30, 2002, outside the 90-day period before an election, Respondents received 6 contributions of \$5,000 or more, totaling \$50,000, and failed to disclose the contributions within 10 business days of receipt in an online campaign report, in violation of section 85309, subdivision (c).

COUNT 10: On July 1, 2002, outside the 90-day period before an election, Respondents received a contribution of \$5,000 or more, in the amount of \$10,000, and failed to disclose it within 10 business days of receipt in an online campaign report, in violation of section 85309, subdivision (c).

COUNT 11 On August 7, 2002, during the 90-day period before an election, Respondents received a contribution of \$1,000 or more, in the amount of \$1,000, and failed to disclose it within 24 hours of receipt in an online campaign report, in violation of section 85309, subdivision (a).

COUNT 12: On August 14, 2002, during the 90-day period before an election, Respondents received a contribution of \$1,000 or more, in the amount of \$1,000, and failed to disclose it within 24 hours of receipt in an online campaign report, in violation of section 85309, subdivision (a).

COUNT 13: On or about August 15, 2002, during the 90-day period before an election, Respondents received a contribution of \$1,000 or more, in the amount of

\$5,000, and failed to disclose it within 24 hours of receipt in an online campaign report, in violation of section 85309, subdivision (a).

COUNT 14: On or about August 16, 2002, during the 90-day period before an election, Respondents received a contribution of \$1,000 or more, in the amount of \$2,500, and failed to disclose it within 24 hours of receipt in an online campaign report, in violation of section 85309, subdivision (a).

COUNT 15: On September 8, 2002, during the 90-day period before an election, Respondents received a contribution of \$1,000 or more, in the amount of \$1,000, and failed to disclose it within 24 hours of receipt in an online campaign report, in violation of section 85309, subdivision (a).

COUNT 16: On September 27, 2002, during the 90-day period before an election, Respondents received a contribution of \$1,000 or more, in the amount of \$10,000, and failed to disclose it within 24 hours of receipt in an online campaign report, in violation of section 85309, subdivision (a).

COUNT 17: On October 21, 2002, during the late contribution reporting period, Respondents received a contribution of \$1,000 or more, in the amount of \$5,000, and failed to disclose it within 24 hours of receipt in a late contribution report, in violation of Section 84203, subdivisions (a) and (b).

COUNT 18: Respondents failed to file a pre-election campaign statement for the reporting period October 1, 2002, through October 19, 2002, by the October 24, 2002 due date, in violation of section 84200.5.

COUNT 19: On October 25, 2002, during the late contribution reporting period, Respondents received 24 contributions of \$1,000 or more, totaling \$45,500, and failed to disclose the contributions within 24 hours of receipt in a late contribution report, in violation of Section 84203, subdivisions (a) and (b).

COUNT 20: On October 29, 2002, during the late contribution reporting period, Respondents received a contribution of \$1,000 or more, in the amount of \$5,000, and failed to disclose it within 24 hours of receipt in a late contribution report, in violation of Section 84203, subdivisions (a) and (b).

COUNT 21: On November 5, 2002, during the 90-day period before an election, Respondents received 13 contributions of \$1,000 or more, totaling \$20,000, and failed to disclose the contributions within 24 hours of receipt in an online campaign report, in violation of section 85309, subdivision (a).

COUNT 22: On November 6, 2002, outside the 90-day period before an election, Respondents received 2 contributions of \$5,000 or more, totaling \$15,000, and failed to disclose the contributions within 10 business days of receipt

in an online campaign report, in violation of section 85309, subdivision (c).

SUMMARY OF THE LAW

Duty to File Periodic Campaign Statements & Reports

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Section 82013, subdivision (a) defines a “committee” to include any person who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.” Under section 82016, a recipient committee controlled by a candidate is a “controlled committee.”

Pre-election Campaign Statements

Candidates and their controlled committees are required to file two pre-election campaign statements before an election in which the candidate is being voted upon. (Section 84200.5.)

For a candidate for elective state office being voted on in a statewide General Election held in November of an even-numbered year, the second pre-election campaign statement for the reporting period ending 17 days before the election must be filed no later than 12 days before the election. (Sections 84200.5, subd. (a), 84200.7, subd. (b).)

Late Contribution Reports

Under section 84203, subdivisions (a) and (b), when a controlled committee makes or receives a late contribution, the committee must file a late contribution report disclosing the contribution within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more that is received before an election, but after the closing date of the last pre-election campaign statement that is required to be filed. Under sections 84200.7 and 84200.8, the late contribution reporting period of an election covers the last 16 days before the election.

Duty to File Reports Online

In order to maximize the availability of information regarding campaign disclosure to the public, the Act requires candidates for elective state office to file campaign statements and reports online when contributions or expenditures reach \$50,000 or more. (Sections 84601, 84605.)

Duty to Report Contributions Received During the Election Cycle of \$1,000 or More

During the election cycle, candidates for elective state office who meet the \$50,000 threshold and are therefore required to file online campaign reports under section 84605 must file an online campaign report within 24 hours of receipt of every contribution of \$1,000 or more. (Section 85309, subd. (a).) The “election cycle” is the period of time commencing 90 days before the election and ending on the date of the election. (Section 85204.) The online campaign report must disclose specified information regarding the contribution and is not required to be filed in paper format. (*Ibid.*)

Duty to Report Contributions Received Outside the Election Cycle of \$5,000 or More

A candidate for elective state office who is required to file online campaign reports (as discussed above), is required to file an online campaign report within 10 business days of receipt of every contribution of \$5,000 or more that is received at any other time than during the election cycle. (Section 85309, subd. (c).) The online campaign report must disclose specified information regarding the contribution and is not required to be filed in paper format. (*Ibid.*)

Liability of Committee Treasurers

Under section 81004, subdivision (b), section 84100, and regulation 18427, subdivision (c), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5, 91006.)

SUMMARY OF THE FACTS

Respondent Migden was a successful candidate for the Board of Equalization in the March 5, 2002, Primary Election and the November 5, 2002, General Election. Currently, she is a State Senator serving a four year term that ends in 2008. From 1996 to 2002, Respondent Migden was a Member of the California State Assembly. Prior to that, she served as a member of the San Francisco Board of Supervisors for five years.

The current matter arose from a mandatory audit conducted by the FPPC. The FPPC is required to conduct audits of candidates for Board of Equalization and their controlled committees if specified monetary thresholds have been met. (Sections 90001, subds. (b), (e); 90006.)

In this matter, in 2002, Respondents received contributions of approximately \$480,000 and made expenditures of approximately \$317,000.

COUNT 18
Failure to File a Pre-Election Campaign Statement

Prior to the November 5, 2002, election, Respondents had a duty to file a pre-election campaign statement for the reporting period October 1 through October 19, 2002, by the October 24, 2002, due date.

By failing to file the second pre-election campaign statement by the October 24, 2002, due date, Respondents violated section 84200.5.

COUNTS 6, 17, 19 AND 20
Failure to File Late Contribution Reports

Respondents were required to file late contribution reports disclosing any contribution aggregating \$1,000 more received during the late reporting period within 24 hours of receipt.

In this matter, the late reporting period for the March 5, 2002, Primary Election was February 17 through March 4, 2002. The late reporting period for the November 5, 2002, General Election was October 20 through November 4, 2002.

Respondents failed to file late contribution reports disclosing 28 late contributions, totaling \$61,500. The unreported contributions are shown in the following table, according to the count to which they correspond.

Count	Date Received	Contributor(s)	Amount
6	2/20/2002	Sarah Reyes For Assembly	\$1,000
		CA Attorneys and Administrative Law Judges &	<u>\$5,000</u>
		Hearing Officers in State Employment PAC	\$6,000
17	10/21/2002	Intuit	\$5,000
19	10/25/2002	Agua Caliente Band of Cahuilla Indians	\$2,500
		American Bankers Insurance Co. Florida	\$1,000
		Barona G&A Account	\$5,000
		Ben Hom & Associates	\$1,000
		BOMA CA	\$1,000
		CA Cable & Telecommunications Assn. PAC	\$1,000
		CA Motor Car Dealers	\$2,000
		CA Pharmacists	\$1,000
		CA Teacher's Assn.	\$2,500
		District Council of Iron Workers	\$2,500
			(cont.)
		DRIVE Political Fund Affiliated with International Teamsters	\$1,000
		Ernst & Young, Los Angeles	\$2,500
		Genentech	\$1,000

Count	Date Received	Contributor(s)	Amount
		Health Care Workers, SEIU Local 250 PAC	\$2,500
		Morongo Band of Mission Indians-Native American Rights Fund	\$5,000
		Ronald Claveloux	\$1,000
		Cris Arguedas	\$1,000
		Elizabeth Cabraser	\$1,000
		Sharon Duvall	\$1,000
		Professional Engineers in CA Gov't	\$1,000
		San Francisco Laborer's Local 261	\$1,000
		State Building & Construction Trades Council	\$2,500
		Waste Management	\$2,500
		Wesson for Assembly	\$3,000
			<u>\$45,500</u>
20	10/29/2002	Pacific Bell/Pacific Telesis Group Employee PAC	\$5,000
		TOTAL	\$61,500

By failing to file late contribution reports disclosing late contributions received, as set forth above, Respondents committed four violations of section 84203, subdivisions (a) and (b).

COUNTS 5, 7, 11-16, AND 21

Failure to Report Contributions of \$1,000 or More Online

During the 90-day period before the March 5, 2002, Primary Election and the November 5, 2002, General Election Respondents were required to disclose each contribution of \$1,000 or more in an online campaign report filed within 24 hours of receipt.

In this matter, Respondents received 21 contributions of \$1,000 or more during the reporting period, totaling \$47,500, and failed to disclose the contributions within 24 hours of receipt in an online campaign report. The unreported contributions are shown in the following table, according to the count to which they correspond.

Count	Date Received	Contributor(s)	Amount
5	2/16/2002	Knowaste, LLC	\$2,000
7	3/5/2002	DRIVE Political Fund Affiliated with International Teamsters	\$5,000
11	8/7/2002	CA Retailers Assn. Good Gov't Council	\$1,000
12	8/14/2002	Consumer Attorneys PAC	\$1,000
13	8/15/2002	Committee on Political Education CA Labor Fed., AFL-CIO	\$5,000
14	8/16/2002	Political Action for Classified Employees CSEA	(cont.) \$2,500
15	9/8/2002	California Applicant Attorneys Assn.	\$1,000
16	9/27/2002	CA State Council of Service Employees	\$10,000
21	11/5/2002	AT&T	\$1,000

		Breadboard Enterprises	\$1,000
		Political Action for Classified Employees CSEA	\$2,500
		District Council of Iron Workers	\$2,500
		Emily's List Non-Federal No. 3	\$1,000
		HMS Associates	\$1,000
		L.A. County Council on Political Education	\$1,000
		Machado for Senate 2000	\$1,000
		Mary Alexander Associates	\$1,000
		Leslie Goldman	\$1,000
		Skadden, Arps, Slate, Meagher, Flom LLP	\$1,000
		TIP Educational Fund-Hotel Employees and Restaurant Employees	\$5,000
		Wine Institute	\$1,000
			\$20,000
		TOTAL	\$47,500

By failing to file online campaign reports disclosing contributions of \$1,000 or more received during the election cycle, as set forth above, Respondents committed nine violations of section 85309, subdivision (a).

COUNTS 1-4, 8-10 AND 22

Failure to Report Contributions of \$5,000 or More Online

Respondents were required to disclose each contribution of \$5,000 or more received at a time other than during an election cycle in an online campaign report filed within 10 business days of receipt.

In this matter, Respondents received 15 contributions of \$5,000 or more during the reporting period, totaling \$110,000, and failed to disclose the contributions within 10 days of

receipt in an online campaign report. The unreported contributions are shown in the following table, according to the count to which they correspond.

Count	Date Received	Contributor	Amount
1	9/30/2001	CA Attorneys and Administrative Law Judges &	

		Hearing Officers in State Employment PAC TIP Educational Fund-Hotel Employees and Restaurant Employees	\$5,000 <u>\$5,000</u> \$10,000
2	10/2/2001	DRIVE Political Fund Affiliated with International Teamsters	\$5,000
3	11/8/2001	Political Action for Classified Employees CSEA	\$5,000
4	11/15/2001	Zenith Insurance Company	\$10,000
8	3/27/2002	TIP Educational Fund-Hotel Employees and Restaurant Employees	\$5,000
9	6/30/2002	CA Attorneys and Administrative Law Judges & Hearing Officers in State Employment PAC Political Action for Classified Employees CSEA DDF Y2K Family Trust E&J Gallo Winery Ameriquet Mortgage Company Clinton Reilly	\$5,000 \$5,000 \$5,000 \$5,000 \$10,000 <u>\$20,000</u> \$50,000
10	7/1/2002	CA Correctional Peace Officers	\$10,000
22	11/6/2002	Pechanga Band of Mission Indians Taxpayers PAC	\$5,000 <u>\$10,000</u> \$15,000
		TOTAL	\$110,000

By failing to file online campaign reports disclosing contributions of \$5,000 or more received outside the election cycle, as set forth above, Respondents committed eight violations of section 85309, subdivision (c).

CONCLUSION

This matter consists of 22 counts, which carry a maximum possible administrative penalty of \$5,000 per violation, for a total of One Hundred Five Thousand Dollars (\$110,000) per violation.

The facts of this case show a pattern of violations that, taken as a whole, resulted in a general lack of disclosure of Respondents' campaign activities during Respondent Migden's campaign for election to the State Board of Equalization. Respondent Migden has a prior enforcement history, having committed eight violations of the late contribution reporting provisions in 2000 while a Member of the Assembly. Additionally, in this matter, the Secretary of State's Office sent numerous reminder letters to Respondents.

Notwithstanding the pervasiveness of the violations, there does not appear to have been any intent by Respondents to deceive the public. The violations are attributable in large part to the reporting duties being handled by individuals other than Respondent Sanders. In mitigation, Enforcement Division Staff met with the new professional treasurer and is informed that procedures are now in place to ensure compliance with the Act.

In this regard, as discussed with more particularity below, the following table sets forth an overview of the stipulated penalty amounts imposed upon Respondents for the violations committed in this case.

Type of Campaign Statement/Report at Issue	Count(s)	Penalty Per Count	No. of Counts	Total
Pre-election Campaign Statement	18	\$3,500	1	\$3,500
Late Contribution Reports	6, 17, 19 & 20	\$2,500	4	\$10,000
\$1,000 Online Reports	5, 7, 11-16 & 21	\$2,000	9	\$18,000
\$5,000 Online reports	1-4, 8-10 & 22	\$2,000	8	\$16,00
TOTALS			22	\$47,500

With regard to the pre-election campaign statement (Count 18) the typical stipulated administrative penalty for failing to timely file a pre-election campaign statement has been in the mid-to-high end of the applicable penalty range, depending on the surrounding circumstances. In this matter, a stipulated administrative penalty of \$3,500 for this violation is appropriate.

With regard to the late contribution reports (Counts 6, 17, 19 and 20) the typical stipulated administrative penalty for failing to file late contribution reports in cases that are resolved outside of the Streamlined Late Contribution Enforcement Program has been 15 to 25 percent of the amount of the undisclosed contribution, depending on the circumstances of the violation. In this matter, Respondents failed to report 28 late contributions. The total amount unreported during the 16-day reporting period was \$61,500. Thus, a stipulated administrative penalty of \$2,500 per count is appropriate for these four violations.

With regard to the \$1,000 online reports (Counts 5, 7, 11-16 and 21) because there is no prior enforcement matter that addresses this requirement there is no typical stipulated administrative penalty for failing to file online reports within 24 hours disclosing contributions of \$1,000 or more received during the election cycle. However, this reporting requirement is very similar to the late contribution reporting requirement in that it contemplates contemporaneous reporting of contributions received close in time to the election. In this regard, the applicable reporting period, the 90-day period prior to the election, is longer than the reporting period for late contributions and captures contributions made further from the election date.² Thus, it is appropriate for stipulated administrative penalties for these violations to be similar, if not slightly less than, typical stipulated penalties for violations of the late contribution reporting requirements, depending in part on how close to the election the contribution is made. In this matter, Respondents failed to report 21 contributions, totaling \$47,500, during the 90-day period. Thus, a stipulated administrative penalty of \$2,000 per count is appropriate for these nine violations.

With regard to the \$5,000 online reports (Counts 1-4, 8-10 and 22) because this requirement has only been addressed in one enforcement matter in the context of a state ballot

² The reporting periods actually overlap, but if a late contribution has been disclosed pursuant to the online filing requirement, the filer is not additionally required to file the late contribution report. (Section 84203, subdivision (e).)

measure committee there is no typical stipulated administrative penalty for failing to file online reports within 10 days of receiving contributions of \$5,000 or more outside election cycle. This reporting requirement is similar in nature to the late contribution reporting requirements and \$1,000 online reporting requirements discussed above. However, this requirement only captures \$5,000 contributions that are made outside the 90-day period before the election and only requires that reporting be done within 10 days of receipt. Thus, it is generally appropriate for stipulated administrative penalties for these violations to be less than is typical for violations of the late contribution reporting requirements, depending on the circumstances. In this matter, however, Respondents failed to report 15 contributions, in the amount of \$110,000, representing a large portion of Respondents' total contributions. Thus, a stipulated administrative penalty of \$2,000 per count is appropriate for these eight violations.

Accordingly, the facts and circumstances of this case justify a total stipulated administrative penalty of \$47,500.